

## Message Text

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ACTION EB-08

INFO OCT-01 EA-10 ISO-00 SP-02 ICA-11 AID-05 NSC-05  
TRSE-00 SS-15 STR-07 OMB-01 CEA-01 CIAE-00  
COME-00 FRB-03 INR-10 NSAE-00 XMB-02 OPIC-03  
LAB-04 SIL-01 H-01 L-03 PA-01 LOC-01 /095 W  
-----045417 250307Z /70

R 250200Z APR 78  
FM USLO PEKING  
TO SECSTATE WASHDC 0507  
INFO AMCONSUL HONG KONG  
AMEMBASSY TOKYO

C O N F I D E N T I A L SECTION 1 OF 2 PEKING 1126

E.O. 11652: GDS  
TAGS: ETRD CH US EIND  
SUBJ: PRC POLICY ON TRADEMARKS AND PATENTS

REF: A) STATE 91176, B) PEKING 805, C) PEKING 798, D) PEKING 738

1. SUMMARY. USLO OFFICERS MET WITH CCPIT LEGAL DEPARTMENT DIRECTOR JEN CHIEN-HSIN ON TRADEMARK AND PATENTS ON APRIL 21, PRESENTED MATERIALS POUCHED BY DEPT., AND CLARIFIED THE THREE QUESTIONS RAISED IN STATE 91176. ON PATENT QUESTION, JEN REITERATED PRC'S PRESENT POLICY OF PROVIDING PROTECTION BY STIPULATIONS IN INDIVIDUAL CONTRACTS BETWEEN PRC FOREIGN TRADE CORPORATIONS AND FOREIGN FIRMS, BUT WENT ON TO ADD THAT USLO SHOULD ASSURE USG AUTHORITIES THAT THE PRC GOVERNMENT WAS MONITORING FTC AND CHINESE END-USER COMPLIANCE WITH THE CONTRACT TERMS. JEN ALSO STATED THAT PEKING HAS UNDER "VERY ACTIVE STUDY" THE QUESTIONS OF POSSIBLE IMPLEMENTATION OF A CHINESE PATENT REGISTRATION PROCEDURE, PRC ADHERENCE TO THE PARIS CONVENTION, AND PRC PARTICIPATION IN THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO). WE BELIEVE JEN'S  
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RESPONSIVENESS IS INDICATIVE OF A NEW RECEPTIVITY BY PEKING FOR A LIMITED EXPANSION OF OFFICIAL DIALOGUE ON SOME TRADE ISSUES, CONSISTENT WITH PRC'S DESIRE TO INCREASE BILATERAL TRADE -- ESPECIALLY CHINESE EXPORTS. END SUMMARY.

2. ON APRIL 21, USLO OFFICERS CALLED ON JEN

CHIEN-HSIN, DIRECTOR OF THE LEGAL DEPARTMENT OF THE CHINA COUNCIL FOR THE PROMOTION OF INTERNATIONAL TRADE (CCPIT), TO FOLLOW UP ON MARCH 23 CONVERSATION (REFTELS B AND C) CONCERNING NEW PRC POLICY ON PERMITTING REGISTRATION OF TRADEMARKS BY AMERICAN FIRMS, AND TO PRESENT MATERIAL POUCHED BY DEPARTMENT ON US LAWS AND REGULATIONS REGARDING TRADEMARKS AND PATENTS.

3. USLO OFFICERS DESCRIBED CONTENTS OF MATERIALS ON TRADEMARKS, AND BRIEFLY SUMMARIZED HIGHLIGHTS OF US PRACTICE. THEY MADE THE POINT IN REF A, PARA 5, THAT ONLY PRC ORIGIN MARKS THAT ARE IN ACTUAL USE IN COMMERCE WITH THE UNITED STATES MAY BE REGISTERED. THIS WAS FOLLOWED BY A SIMILAR BRIEF PRESENTATION ON PATENTS. JEN THANKED USLO OFFICERS FOR THE PRESENTATIONS, EXPRESSED APPRECIATION FOR THE MATERIALS -- WHICH HE SAID WOULD BE VERY HELPFUL IN UNDERSTANDING US PRACTICE -- AND NOTED THAT THE FACT THAT EACH COUNTRY CAN FILE TRADEMARKS IN THE OTHER COUNTRY WOULD LEAD TO IMPROVEMENT IN BILATERAL TRADE.

4. USLO OFFICERS THEN DISCUSSED WITH JEN THE CLARIFICATIONS DEPARTMENT REQUESTED IN REFTTEL A, AS FOLLOWS: FOREIGN WORDS. JEN SAID THAT ARTICLE 5 OF THE 1963 "REGULATIONS GOVERNING TRADE MARKS" APPLIES TO TRADEMARKS USED IN CHINESE INTERNAL COMMERCE. CONFIDENTIAL

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FOREIGN TRADEMARKS REGISTERED IN CHINA ARE NOT LIMITED BY THIS PROVISION AND MAY USE ANY LANGUAGE. HE SPECIFICALLY STATED THAT US TRADEMARKS REGISTERED IN CHINA MAY INCLUDE ENGLISH WORDS. HE NOTED ALSO THAT CHINESE TRADEMARKS REGISTERED IN FOREIGN COUNTRIES OFTEN CONTAINED FOREIGN WORDS.

5. RECIPROCAL AGREEMENTS. (ARTICLE 12 OF 1963 REGULATIONS.) AFTER REITERATING REMARKS ALREADY REPORTED (E.G., REFTTEL B, PARA 4), JEN "OFFICIALLY CONFIRMED ON BEHALF OF THE CHINESE GOVERNMENT" THAT US FIRMS MAY REGISTER THEIR TRADEMARKS IN THE PRC; A BILATERAL AGREEMENT IS NOT NECESSARY. AMERICAN FIRMS WHICH HAVE ALREADY REGISTERED TRADEMARKS THROUGH A FOREIGN SUBSIDIARY LOCATED IN A COUNTRY WHICH DOES HAVE A BILATERAL AGREEMENT WITH CHINA MAY, IF THEY WISH, USE THE ASSIGNMENT PROCEDURE IN THE CHINESE REGULATIONS TO ASSIGN THE TRADEMARK FROM THE SUBSIDIARY BACK TO THE PARENT FIRM IN THE US. USLO OFFICERS ASKED WHETHER, IN THE FUTURE, IT WOULD BE PREFERABLE FOR HEAD OFFICES OF US FIRMS TO REGISTER THEIR TRADEMARKS DIRECTLY, RATHER THAN

THROUGH SUBSIDIARIES. JEN STATED THAT THE PRC HAD NO OPINION ON THIS; IT WAS A MATTER FOR THE INDIVIDUAL FIRM TO DECIDE. (COMMENT: JEN'S REMARKS, WE BELIEVE, MEAN THAT REGISTERING TRADEMARKS DIRECTLY WILL PROVIDE US FIRMS WITH PROTECTION EQUIVALENT TO REGISTERING THROUGH A FOREIGN SUBSIDIARY.)

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C O N F I D E N T I A L SECTION 2 OF 2 PEKING 1126

6. STATUS OF CCPIT IN TRADEMARK MATTERS. JEN CONFIRMED THAT CCPIT IS FULLY AUTHORIZED TO SPEAK FOR THE CENTRAL ADMINISTRATIVE BUREAU FOR INDUSTRY AND COMMERCE, AS WELL AS FOR THE PRC GOVERNMENT GENERALLY, ON TRADEMARK MATTERS RELATING TO FOREIGNERS. HE ADDED THAT THERE IS A TRADEMARK REGISTRATION AGENCY UNDER THE JURISDICTION OF THE CCPIT LEGAL DEPARTMENT, WHICH IS RESPONSIBLE FOR FOREIGN TRADEMARK REGISTRATION. IN RESPONSE TO A USLO QUESTION, HE STATED THAT US FIRMS WISHING TO CORRESPOND ON TRADEMARK MATTERS SHOULD WRITE TO: TRADEMARK REGISTRATION AGENCY, CHINA COUNCIL FOR THE PROMOTION OF INTERNATIONAL TRADE, PEKING, PEOPLE'S REPUBLIC OF CHINA.

7. USLO OFFICERS NOTED THAT, CONSISTENT WITH OUR NORMAL PRACTICE, THE US DEPARTMENT OF COMMERCE WAS PREPARING A PUBLIC ANNOUNCEMENT ON THE NEW PRC POLICY IN ORDER TO INFORM ALL INTERESTED AMERICAN FIRMS AND INDIVIDUALS. JEN SAID THERE WAS NO OBJECTION TO THIS.

8. LAST TOPIC COVERED WAS PATENT PROTECTION IN THE

PRC. JEN REPEATED REMARKS MADE TO USLO OFFICER AT  
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THE MARCH 23 MEETING: "PATENTS ARE NOT DEALT WITH  
IN OUR COUNTRY. THIS DOES NOT MEAN, HOWEVER, THAT  
WE DON'T PROTECT (INVENTIONS AND TECHNOLOGY OF)  
FOREIGN FIRMS. FOR THE TIME BEING, PATENT PROTECTION  
WILL BE PROVIDED AS STIPULATED IN TRADE CONTRACTS.  
PLEASE CONVEY THIS POINT TO THE RELEVANT US GOVERNMENT  
AUTHORITIES. TELL THEM NOT TO WORRY." JEN ADDED,  
"OUR GOVERNMENT WILL SEE TO IT THAT THE 'DEPARTMENTS  
CONCERNED' ABIDE BY THE CONTRACT STIPULATIONS. THIS IS OUR  
PRESENT POLICY".

9. JEN WENT ON TO SAY THAT "FOR THE FUTURE, THE  
'RELEVANT DEPARTMENTS' ARE VERY ACTIVELY STUDYING  
WHETHER THE PRC SHOULD INSTITUTE A PATENT REGISTRATION  
PROCEDURE, WHETHER TO ADHERE TO THE PARIS CONVENTION  
FOR THE PROTECTION OF INDUSTRIAL PROPERTY, AND WHETHER  
TO ATTEND THE WORLD INTELLECTUAL PROPERTY  
CONFERENCE. MANY OF OUR FRIENDS HAVE MADE  
SUGGESTIONS ON THESE MATTERS; FOR EXAMPLE,  
SUGGESTING THAT WE SHOULD ADHERE TO THE PARIS  
CONVENTION." JEN CONCLUDED BY STATING THAT  
HIS REMARKS ON THE PRC PATENT POLICY REVIEW WERE  
FOR OUR (USG) INFORMATION ONLY.

10. USLO OFFICERS EXPRESSED APPRECIATION FOR JEN'S  
REMARKS, AND INDICATED THAT IF THE CCPIT HAD ANY  
QUESTIONS ON THE MATERIALS PRESENTED, WE WOULD BE  
PLEASED TO DISCUSS THEM FURTHER AND SEEK CLARIFICATION  
FROM WASHINGTON.

11. COMMENT: WE WERE IMPRESSED BY JEN'S RESPONSIVENESS  
AND HIS WILLINGNESS TO ADDRESS ISSUES DIRECTLY,  
AT AN OFFICIAL LEVEL, AND FOR THE RECORD.  
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AS DEPARTMENT IS AWARE, THE USG DIALOGUE WITH CHINESE  
OFFICIALS ON TRADE AND ECONOMIC ISSUES PREVIOUSLY  
HAS BEEN RELATIVELY LIMITED AND NON-SUBSTANTIVE;  
PEKING HAS USUALLY PREFERRED TO RECEIVE TRADE INFORMATION --  
EVEN ON USG POLICIES -- FROM THE NATIONAL COUNCIL FOR US-  
CHINA TRADE OR FILTERED THROUGH US BUSINESSMEN. WE  
BELIEVE THAT THE PRC WOULD LIKE TO SEE SOME  
IMPROVEMENT IN THE CLIMATE OF CONDUCTING THE US TRADE;

AT THE SAME TIME, THE PEKING AUTHORITIES APPARENTLY  
RECOGNIZE THAT AN EXCHANGE OF VIEWS ON TRADE  
ISSUES (PARTICULARLY THOSE RELATING TO US LAWS  
AND REGULATIONS) IS BENEFICIAL TO TRADE EXPANSION.  
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## Message Attributes

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**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
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**Disposition Approved on Date:**  
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**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
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